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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

RAYMOND ZACK GUERRERO-  
GARCIA,

Defendant.

NO: 1:18-CR-02016-LRS

Plea Agreement

Plaintiff United States of America, by and through William D. Hyslop,  
United States Attorney, and Thomas J. Hanlon, Assistant United States Attorney,  
for the Eastern District of Washington, and the Defendant, Raymond Zack  
Guerrero-Garcia, and the Defendant's counsel, Alex B. Hernandez, III., agree to  
the following Plea Agreement pursuant to Fed. R. Crim. P. 11(c)(1)(C):

1           **1.     Guilty Plea and Maximum Statutory Penalties:**

2     The Defendant agrees to enter a plea of guilty to Count 2 of the Indictment filed on  
3  
4     March 13, 2018, charging the Defendant with Discharge of a Firearm During a Crime  
5     of Violence, in violation of 18 U.S.C. §924(c)(1)(A)(iii).

6           The Defendant understands that the maximum statutory penalty for Discharge  
7  
8     of a Firearm During a Crime of Violence, in violation of 18 U.S.C.  
9     §924(c)(1)(A)(iii), is a term of no less than ten years imprisonment nor more than life  
10    imprisonment; a fine not to exceed \$250,000; a term of supervised release of five  
11    years; and a \$100 special penalty assessment.

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13           **2.     Video Proceedings:**

14  
15    Pursuant to this Court's General Orders 20-101-3 (eff. March 30, 2020) and  
16    20-101-7 (eff. June 23, 2020), and Section 15002(b) of the CARES Act, Pub. L. No.  
17    116-136 (H.R. 748)(eff. March 27, 2020), the Defendant agrees to the use of video  
18    conferencing (or telephone conferencing if video conferencing is not reasonably  
19    available) for any eligible hearings listed in Section 15002(b) of the CARES Act,  
20    specifically detention hearings, initial appearances, preliminary hearings, waivers of  
21    indictment, arraignments, supervised release revocation proceedings, pretrial release  
22    revocation proceedings, and felony pleas and sentencings.  
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2           **3.     Fed. R. Crim. P. 11(c)(1)(C):**

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4           The Defendant understands that this Plea Agreement is entered into pursuant to  
5 Fed. R. Crim. P. 11(c)(1)(C), and that the Defendant has the option to withdraw from  
6 this Plea Agreement if the Court imposes a sentence greater than agreed upon. The  
7 United States has the option to withdraw from this Plea Agreement if the Court  
8 imposes a sentence lesser than agreed upon.  
9

10           Here, the United States and the Defendant agree to recommend that the court  
11 impose a sentence of 120 months imprisonment followed by five years of supervised  
12 release.  
13

14           **4.     Waiver of Constitutional Rights:**

15           The Defendant understands that by entering this plea of guilty the Defendant is  
16 knowingly and voluntarily waiving certain constitutional rights, including:  
17

- 18           (a)    The right to a jury trial;  
19           (b)    The right to see, hear and question the witnesses;  
20           (c)    The right to remain silent at trial;  
21           (d)    The right to testify at trial; and  
22           (e)    The right to compel witnesses to testify.  
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26           While the Defendant is waiving certain constitutional rights, the Defendant  
27 understands that he retains the right to be assisted through the sentencing and any  
28

1 direct appeal of the conviction and sentence by an attorney, who will be appointed at  
2 no cost if the Defendant cannot afford to hire an attorney. The Defendant also  
3 acknowledges that any pretrial motions currently pending before the Court are  
4 waived.  
5

6 **5. Elements of the Offense:**  
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8 The United States and the Defendant agree that in order to convict the  
9 Defendant of Discharge of a Firearm During a Crime of Violence, in violation of 18  
10 U.S.C. §924(c)(1)(A)(iii), the United States would have to prove beyond a reasonable  
11 doubt the following elements:  
12

13 (1) the defendant committed the crime of Assault with a Dangerous Weapon  
14 as charged in Count 1 of the Indictment, which is a crime of violence;  
15

16 (2) the defendant knowingly discharged a firearm during and in relation to that  
17 crime.  
18

19 *9th Cir. Model Instruction 8.71 (2014) (modified)*  
20

21 **6. Factual Basis and Statement of Facts:**

22 The United States and the Defendant stipulate and agree that the following  
23 facts are accurate; that the United States could prove these facts beyond a reasonable  
24 doubt at trial; and that these facts constitute an adequate factual basis for Defendant's  
25 guilty plea. This statement of facts does not preclude either party from presenting  
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1 and arguing, for sentencing purposes, additional facts which are relevant to the  
2 guideline computation or sentencing, unless otherwise prohibited in this agreement.  
3

4 The Defendant is an enrolled member of the Confederated Bands and Tribes of  
5 the Yakama Nation. The Confederated Bands of the Yakama Nation is a federally  
6 recognized Indian tribe. The Defendant's bloodline is derived from a federally  
7 recognized Indian tribe. The Defendant receives assistance reserved to individuals  
8 who are members of the Confederated Bands and Tribes of the Yakama Nation.  
9

10 On May 18, 2017, law enforcement officers responded to the Toppenish  
11 Community Hospital regarding a male who had been shot in each leg. Sergeant N.  
12 Boyer ("SGT Boyer") and Deputy B. McIlrath ("Deputy McIlrath") of the Yakima  
13 County Sheriff's Office ("YCSO") met with P.R. SGT Boyer and Deputy McIlrath  
14 observed that the P.R. had been shot in each leg. Deputy McIlrath asked P.R. to  
15 explain the incident. P.R. advised that in approximately January 2017, he (P.R.) had  
16 stolen "dope" from the Defendant and had also damaged the Defendant's car. P.R.  
17 explained that he thought that he and the Defendant had "made amends" since that  
18 time. P.R. advised that on May 18, 2017, he (P.R.) learned that the Defendant's  
19 mother had passed away. P.R. advised that he traveled to 30 Fraley Road,  
20 Toppenish, to meet with the Defendant to offer his condolences. P.R. advised that he  
21 saw the Defendant and approached him. P.R. advised that the Defendant pulled out a  
22 gun, pointed it at his head, and stated, "I have been waiting for this day." P.R. stated  
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1 that the Defendant then shot him once in each leg. After the shooting, the Defendant  
2 entered P.R.'s vehicle and stole his stereo and other property. The Defendant then  
3 allowed P.R. to leave the property. P.R. entered his vehicle and drove to the hospital.  
4

5 Deputy McIlrath and others traveled to Fraley Road. The officers approached  
6 31 Fraley Cutoff Road, Toppenish.<sup>1</sup> The officers walked on the driveway and  
7 observed the following items on the ground: (1) blood; (2) P.R.'s identification card;  
8 (3) blood splatter; and (3) a bullet slug.  
9

10 Deputy McIlrath contacted the homeowners. The homeowners advised that  
11 their mother had recently passed away. The homeowners advised that they woke up  
12 at approximately 11:30 p.m. after hearing multiple gunshots and someone screaming.  
13 The homeowners advised that they did not see the shooting. One of the homeowners  
14 advised that the Defendant often stays in his car in the driveway. The homeowner  
15 advised that the Defendant had just called and advised that he left "some stuff" on the  
16 car in the driveway.  
17

18 On June 27, 2017, Special Agents B. Bach ("Agent Bach") and K. Alconaba  
19 ("Agent Alconaba") of the Bureau of Alcohol, Tobacco, and Firearms ("ATF") met  
20 with a female. The female advised that on May 18, 2017, she was with the  
21 Defendant at 31 Fraley Cutoff Road, Toppenish. The female advised that she was  
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27  
28 <sup>1</sup> The residence and property are located within the external boundaries of the Yakama Nation  
Indian Reservation and in Indian Country as that term is defined in 18 U.S.C. § 1151.

1 sitting with the Defendant in his car. The female advised that the Defendant had a  
2 pistol on his lap. The female advised that she and the Defendant were discussing the  
3 death of the Defendant's mother. The female advised that she saw P.R. pull into the  
4 driveway. The female advised that P.R. exited his car, walked towards the  
5 Defendant, and stated, "hey bro, I am sorry about your mom." The female advised  
6 that the Defendant made a statement and shot P.R. The female advised that after the  
7 shooting, the Defendant took several items from P.R.'s vehicle. The female stated  
8 that she and the Defendant entered a vehicle and left the property.  
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12 **7. Waiver of Inadmissibility of Statements:**

13 The Defendant agrees to waive the inadmissibility of statements made in the  
14 course of plea discussions with the United States, pursuant to Fed.R.Crim.P. 11(f).  
15 This waiver shall apply if the Defendant withdraws this guilty plea or breaches this  
16 Plea Agreement. The Defendant acknowledges that any statements made by the  
17 Defendant to law enforcement agents in the course of plea discussions in this case  
18 would be admissible against the Defendant in the Government's case-in-chief if the  
19 Defendant were to withdraw or breach this Plea Agreement.  
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23 **8. The United States Agrees:**

24 (a.) Not to File Additional Charges:

25 The United States Attorney's Office for the Eastern District of Washington  
26 agrees not to bring any additional charges against the Defendant based upon  
27  
28



1 information in its possession at the time of this Plea Agreement and arising out of  
2 Defendant's conduct involving illegal activity charged in the Indictment, unless the  
3 Defendant breaches this Plea Agreement any time before or after sentencing.  
4

5 (b.) Dismissal:

6 At sentencing, the United States agrees to dismiss Count 1 of the Indictment  
7 which charges Assault with a Dangerous Weapon, in violation of 18 U.S.C. §1153  
8 and §113(a)(3).  
9

10 **9. United States Sentencing Guideline Calculations:**

11 The guideline sentence is the minimum term of imprisonment required by  
12 statute. U.S.S.G. §2K2.4(b). Here, the minimum term of imprisonment required by  
13 statute is 10 years. 18 U.S.C. §924(c)(1)(A)(iii).  
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16 (a.) Base Offense Level:

17 The United States and the Defendant agree that there is no applicable offense  
18 level, but the Defendant is subject to a mandatory sentence of not less than ten years  
19 imprisonment pursuant to 18 U.S.C. §924(c)(1)(A)(iii).  
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22 (b.) Acceptance of Responsibility:

23 The United States and the Defendant agree that the provisions for acceptance  
24 of responsibility are not applicable.  
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1 (c.) Criminal History:

2 The United States and the Defendant agree that no criminal history  
3  
4 computations are necessary, as the sentence is a mandatory period of incarceration,  
5 regardless of the Defendant's criminal history.


6 **10. Incarceration:**

7  
8 The United States and the Defendant agree to recommend that the Court  
9 impose a sentence of 120 months imprisonment.

10 **11. Criminal Fine:**

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12 The United States and the Defendant are free to make whatever  
13 recommendation concerning the imposition of a criminal fine that they believe is  
14 appropriate.

15 **12. Supervised Release:**

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17 The United States and the Defendant agree to recommend that the Court  
18 impose a five year term of supervised release, ~~and to include special conditions as~~  
19 ~~recommended by United States probation, in addition to the standard conditions of~~  
20 ~~supervised release.~~ 

21 **13. Mandatory Special Penalty Assessment:**

22  
23 The Defendant agrees to pay the \$100 mandatory special penalty assessment to  
24 the Clerk of Court for the Eastern District of Washington, at or before sentencing,  
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1 pursuant to 18 U.S.C. § 3013 and shall provide a receipt from the Clerk to the United  
2 States before sentencing as proof of this payment.

3  
4 If the Defendant lacks the financial resources to pay the monetary obligations  
5 imposed by the Court, the Defendant agrees to earn the money to pay toward these  
6 obligations by participating in the Bureau of Prisons' Inmate Financial Responsibility  
7 Program.  
8

9 **14. Restitution:**

10 The United States and the Defendant hereby stipulate, and agree that, pursuant  
11 to 18 U.S.C. §3663, §3663A, and §3664, the Court should order restitution to P.R.  
12 Furthermore, the United States and the Defendant hereby stipulate, and agree that,  
13 pursuant to 18 U.S.C. §3663, 3663A, and 3664, the Court should order restitution to  
14 all medical providers including but not limited to (1) Toppenish Community  
15 Hospital; and (2) the Crime Victim's Compensation Fund relating to injuries suffered  
16 by P.R. on or about May 18, 2017. The Defendant reserves the right to object to the  
17 amount of restitution as determined in the Presentence Investigation Report.  
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22 **15. Additional Violations of Law Can Void Plea Agreement:**

23 The Defendant and the United States agree that the United States may at its  
24 option and upon written notice to the Defendant, withdraw from this Plea Agreement  
25 or modify its recommendation for sentence if, prior to the imposition of sentence, the  
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1 Defendant is charged or convicted of any criminal offense whatsoever or if the  
2 Defendant tests positive for any controlled substance.  
3

4 **16. Appeal Rights:**

5 The Defendant waives any right to appeal this conviction and the sentence  
6 imposed by the Court. The Defendant also waives his right to appeal any restitution  
7 order so long as the restitution order does not exceed \$50,000.00. The Defendant  
8 also waives any right to collaterally attack this conviction and sentence under 28  
9 U.S.C. § 2255, or any other collateral attack (except for ineffective assistance of  
10 counsel based on facts discovered after the plea and sentencing). The Defendant  
11 acknowledges that this waiver shall result in the dismissal of any appeal or collateral  
12 attack the defendant might file challenging the conviction or sentence in this case,  
13 except for ineffective assistance of counsel as noted above. If the Defendant files a  
14 notice of appeal, a habeas petition, or other collateral attack, notwithstanding this  
15 agreement, the Defendant agrees that this case shall, upon motion of the government,  
16 be remanded to the district court to determine whether Defendant is in breach of this  
17 agreement and, if so, to permit the government to withdraw from the Plea Agreement.  
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23 **17. Integration Clause:**

24 The United States and the Defendant acknowledge that this document  
25 constitutes the entire Plea Agreement between the United States and the Defendant,  
26 and no other promises, agreements, or conditions exist between the United States and  
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28



1 the Defendant concerning the resolution of the case. This Plea Agreement is binding  
2 only upon the United States Attorney's Office for the Eastern District of Washington,  
3 and cannot bind other federal, state or local authorities. The United States and the  
4 Defendant agree that this agreement cannot be modified except in a writing that is  
5 signed by the United States and the Defendant.  
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11

12 Approvals and Signatures

13 Agreed and submitted on behalf of the United States Attorney's Office for the  
14 Eastern District of Washington.  
15

16 WILLIAM D. HYSLOP  
17 United States Attorney

18 

20 THOMAS J. HANLON  
21 Assistant United States Attorney

19 7/6/20  
20 Date

22 I have read this Plea Agreement and have carefully reviewed and discussed  
23 every part of the agreement with my attorney. I understand and voluntarily enter into  
24 this Plea Agreement. Furthermore, I have consulted with my attorney about my  
25 rights, I understand those rights, and I am satisfied with the representation of my  
26 attorney in this case. No other promises or inducements have been made to me, other  
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1 than those contained in this Plea Agreement, and no one has threatened or forced me  
2 in any way to enter into this Plea Agreement. I am agreeing to plead guilty because I  
3 am guilty.

4  
5 /s/ Raymond Zack Guerrero-Garcia  
6 RAYMOND ZACK GUERRERO-GARCIA  
7 Defendant

7-6-2020  
Date

I certify I reviewed this document with Raymond Guerrero-Garcia and he authorized my signature on his behalf. Alex B. Hernandez, Attorney - 7-6-20
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8 I have read the Plea Agreement and have discussed the contents of the  
9 agreement with my client. The Plea Agreement accurately and completely sets forth  
10 the entirety of the agreement between the parties. I concur in my client's decision to  
11 plead guilty as set forth in the Plea Agreement. There is no legal reason why the  
12 Court should not accept the Defendant's plea of guilty.  
13  
14  
15  
16

17 Alex B. Hernandez, III  
18 ALEX B. HERNANDEZ, III.  
19 Attorney for the Defendant

Date 7-6-2020